

CIVIL COVER SHEET

JS 44 (Rev. 12/07) (and rev 1-16-08)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

Marcus A. Mitchell

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)*Alameda*

(c) Attorney's (Firm Name, Address, and Telephone Number)

Mark F. Anderson, 044787
Kemnitzner, Anderson, Barron, Ogilvie & Brewer, LLP,
445 Bush Street, 6th Floor, San Francisco, CA 94108
(415) 861-2265

DEFENDANTS

Experian Information Solutions, Inc., a Ohio corporation; Trans Union LLC, a Delaware corporation; and Alameda County

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.

Brief description of cause:

Failure to Reinvestigate Disputed Information: Violation of the Fair Credit Reporting Act - Failure to Reinvestigate

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS TBD

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE"

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSEDATE
September 22, 2008

SIGNATURE OF ATTORNEY OF RECORD

Mark F. Anderson

BY FAX

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8 Attorneys for Plaintiff Marcus A. Mitchell

FILED

SEP 24 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Free
pd.

ISS

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

12 Marcus A. Mitchell,

13 Plaintiff,

14 vs.

15 EXPERIAN INFORMATION
16 SOLUTIONS, INC., a Ohio corporation,
17 TRANS UNION LLC, a Delaware
18 corporation, and
19 ALAMEDA COUNTY,

20 Defendants.

Case No.

C08-04450

EDL

COMPLAINT

and

ADR

JURY TRIAL DEMAND

BY FAX

21
22
23 1. This case arises under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C.
24 §1681 *et seq.*

PARTIES

25
26 2. Plaintiff Marcus A. Mitchell is a "consumer" as defined by 15 U.S.C. §

GO 44 SEC. N
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

1 1681a(c). Plaintiff resides in the Alameda County and is a resident of Oakland, California.

2 3. Defendant Experian Information Solutions, Inc. ("Experian") is a "consumer
3 reporting agency that compiles and maintains files on consumers on a nationwide basis" as
4 defined in 15 U.S.C. §§ 1681a (f) and (p).

5 4. Defendant Trans Union LLC ("Trans Union") is a "consumer reporting
6 agency that compiles and maintains files on consumers on a nationwide basis" as defined in
7 15 U.S.C. §§ 1681a (f) and (p).

8 5. Defendant Alameda County's Department of Child Support Services
9 enforces court orders for child support

10
11 **JURISDICTION**

12 6. This court has jurisdiction under 28 U.S.C. § 1331. Defendants were
13 authorized to and have been doing business within this district at all relevant times.

14 **VENUE**

15 7. The activities alleged herein occurred within this district and local venue is
16 proper since the activities arose within Alameda County, California.

17 **FACTS**

18 8. Beginning in 1992, plaintiff became obligated to pay child support payments
19 to Alameda County for the benefit of daughter, which payments were to be transferred to his
20 daughter's mother.

21 9. From 1992 to date, plaintiff made timely payments to Alameda County for
22 the child support payments through an automatic payroll deduction.

23 10. California Family Code Section 4701 requires the California Department of
24 Social Services to administer an automated system for the reporting of court-ordered child
25 support obligations to credit reporting agencies.

26 11. For reasons, unknown to plaintiff, from at least October 2007 to date, the

1 defendant credit reporting agencies have reported that plaintiff was over 90 days late in
2 making payments on multiple occasions

3 12. Plaintiff sent defendants Experian and Trans Union letters disputing the
4 accuracy of the described reports on December 6, 2007; February 29, 2008; and July 2,
5 2008.

6 13. Plaintiff is informed and believes that defendants Experian and Trans Union
7 sent the Department of Child Support Services notifications that plaintiff was disputing
8 whether his payments were ever late.

9 14. Defendants Experian and Trans Union refused to correct the described
10 inaccurate account information.

11 15. Defendants Experian and Trans Union negligently and willfully failed to
12 perform a reasonable reinvestigations as required by the FCRA.

13 **Damages**

14 16. Plaintiff has been damaged by defendants' refusal to correct and delete the
15 inaccurate information on his credit reports.

16 17. Plaintiff has been denied credit because of the inaccurate information in his
17 credit reports.

18 18. Plaintiff has suffered emotional distress as a legal result of defendants'
19 violations of the FCRA.

20 **First Claim for Relief—Against Defendants Experian and Trans Union for Failure to**
21 **Reinvestigate Disputed Information**

22 19. Plaintiff realleges and incorporates ¶¶ 1-18.

23 20. After plaintiff disputed the account mentioned above, defendants Experian
24 and Trans Union were required by 15 USC 1681i (A) to conduct a reasonable investigation
25 and to delete any information that was not accurate. In doing so, defendants were required to
26 send all relevant information to the furnisher, which they did not do.

21. Defendants Experian and Trans Union negligently and willfully failed to conduct reasonable reinvestigations as required by the FCRA.

Second Claim for Relief— Against Defendant Alameda County for Violation of the Fair Credit Reporting Act--Failure to Reinvestigate

22. Plaintiff realleges and incorporates ¶¶ 1-18.

23. Defendants Experian and Trans Union provided notice to the defendant Alameda County that plaintiff was disputing the reporting of the information concerning the child support account.

24. Defendant Alameda County violated section 1681s-2(b) of the FCRA by failing to conduct a reasonable investigation with respect to the disputed information and by failing to instruct defendants Experian and Trans Union to delete the tradeline from plaintiff's credit report since it was time-barred.

25. On August 19, 2008, plaintiff presented a written claim to defendant Alameda County based on the facts alleged herein pursuant to the California Government Code.

26. On September 10, 2008, defendant Alameda County sent notice that the claim was rejected by Operation of Law on that date.

WHEREFORE, plaintiff prays for judgment against defendants as follows:

1. Actual damages;
2. Statutory damages;
2. Punitive damages;
3. Attorneys fees, and

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1 4. Costs and expenses incurred in the action.

2 Dated: September 22, 2008.

3 KEMNITZER, ANDERSON, BARRON, OGILVIE & BREWER LLP

4
5 By: 

6 Mark F. Anderson
7 Attorneys for Plaintiff

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff demands a trial by jury on all issues

10
11 By: 

12 Mark F. Anderson
13 Attorney for Plaintiff